Shadow report abstract of Wunschkind e.V.
to the 6th state report of the German Government, 2007, to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Reproduction is an essential human want. The right on founding a family is stipulated in article 16 e) of CEDAW. Especially for women an impediment to fertility in case of distinct desire to have children leads to distress. Women are a lot more afflicted with unintentional childlessness than men. On one hand they lack the experience of a pregnancy and on the other hand, since due to evolution women spend a lot more time together with their children.

For couples in Germany who have a disability to conceive a child, their way to a planned child is significantly being aggravated or even made impossible in many cases due to prohibitions, inadequate laws and lack of financing. Moreover the fertility is inadequately protected.

1. Prohibitions: The rules in the German Embryo Protecting Act (GEPA) bring about that *ovum donation and preimplantation genetic diagnosis (PGD) are not allowed.* Therefore women who are unable to successfully conceive using her own eggs as well as women, whose men suffer from severe hereditary diseases either have to remain childless, are forced to termination of pregnancy after amniocentesis or to foster a gravely disabled child. Or they are compelled to go to foreign countries for their fertility treatment, which implies a considerably higher financial and emotional effort. A possible infringement of rights of the donor is not being avoided - only relocated to foreign countries. Some foreign clinics are not being considerate of the donor's health due to inadequate medical standard. The donor's data is often not being preserved, which leads to infringement of the child's right to know his own filiation.

The embryo protection law does not allow prolonged cultivation of more than 3 embryos. This brings about reduced success rates as well as increased multiple pregnancy rates after in-vitro fertilisation (IVF), as the couples insist on having more than one embryo transferred, in order to increase their chances. Reduced success rates lead to unnecessarily frequent surgical procedures and hormonal treatment of the women, which bears comparison with a kind of bodily harm. Multiple pregnancies lead to increased risks for mother and children.

2. Inadequate laws: It is debatable, if the GEPA also includes a *prohibition of embryo donation.* At least the law is interpreted in a way that no donation of "surplus" cryoconserved preembryos is being practised. However, embryo donation could help many couples to achieve their goal of becoming happy parents when the woman does not dispose of developable gametes or wants to do without hormonal treatment.

Reproductive treatment of *lesbian women* is possible only to a limited extent. If these women suffer from a fertility disorder that demands IVF for example, there is no way for them to be treated in Germany.[1] The German law explicitly assumes a causer of the pregnancy, who is liable for child support. Since lesbian couples cannot come up with a social surrogate father, in case of hardship this is the sperm donor – or according to some lawyers it is even the doctor, who has induced the pregnancy. If a lesbian couple has finally achieved their aim for a child, the rights within the family relations are not equated with the rights in families with heterosexual parents.

[1] Richtlinien der Bundesärztekammer zur Durchführung der assistierten Reproduktion (2006)

Women in fertility treatment are not being protected at their workplace. *Job and treatment* are incompatible for about one third of all couples[2], as they have to conceal the reason for their frequent and sudden absence, in order not to risk the loss of job.

In Germany there is too little attempt to avoid fertility disorders. In particular there is a *lack of education and prevention*. Doctors are inadequately skilled. Essential preventive medical examinations, as for example, Chlamydia screenings are left undone. The diagnostic investigation before a reproductive treatment often is not sufficient. For example thyroid hypofunction and thyroid immune mediated diseases as well as genetically caused coagulation disorders are rarely tested.

3. Lack of financing: *Only in certain cases half of the costs of three cycles of reproductive treatment will be born by the statutory health insurance.* Excluded from the rule are couples who would require a treatment with sperm, ovum or embryo donation due to missing developable gametes (man or woman). Furthermore couples using a in Germany forbidden medical procedure to cause a pregnancy, lesbian couples, unmarried couples, couples beyond the mandatory age limit as well as couples, where one of the partners is HIV positive. Therefore many couples can only fulfil their longing for a child by expense of some thousand or even some tens of thousands Euro. Many couples cannot afford such large amounts. The health care reform 2004 alone, which is responsible only for a part of the above mentioned restrictions, caused a decrease of approx. 10.000 children born after reproductive medical treatment per year. It also caused a raise of the average age of the treated women by 1.5 years, which again leads to decreased prospect of success.

4. Protection of fertility: Unfortunately the protection of the sexual organs is utopia in Germany. Even nowadays the outer and inner sexual organs including gonads and ovaries of *intersexual people* are being excised or destructed on purpose by medication without their explicit consent. *Transsexual people* are being forced to give up their fertility, in order to be accepted with their true gender. *Young people* who have not yet terminated their family planning, often do not get sufficient information upon the adverse effects and the possibility to freeze sperm or ovums *before they have to undergo an inevitable therapy, which impairs the fertility*. With regard to preserving the fertility of their patients doctors are often inadequately skilled. They are not held liable for a preventable injury of fertility. Reasonable measurements to maintain fertility are not covered by one's medical insurance. *The education of young people about avoidable causes of unintentional childlessness is insufficient.*

In their shadow report about the topic unintentional childlessness Wunschkind e.V. submits proposals and points out quite a few possibilities in order to determine the above mentioned grievances. Moreover the authors of this report supply for a contextual examination with the arguments of the supporters of the criticized regulations as well as a detailed justification for the demand on their revision.

[2] Strauß, Bernhard, Beyer, Karla et al.; „Ungewollte Kinderlosigkeit“ in Gesundheitsberichterstattung des Bundes, Heft 20; Robert-Koch-Institut; Berlin 2001; S. 19

Questions to the German Government

Question 1: What will the German Government do in order to enable all unintentional childless couples access to take measures of reproductive medicine regardless of their personal financial status and regardless of their diagnosis and their marital status? When will this happen?

Question 2: When will the German Government replace the embryo protection law of 1990 by a contemporary embryo protection - or rather reproductive medicine law, which will give consideration to the newly achieved scientific research findings as well as to treatment strategies, such as prolonged cultivation of more than 3 embryos and the preimplantation genetic diagnosis in case of severe hereditary diseases? When will the German Government allow treatments like ovum and embryo donation in Germany?

Question 3: Which measures will be taken by the German Government in order to allow unintentional childless couples optimal treatment conditions with sufficient diagnostic investigation and also extensive prevention from unnecessary treatments in future?

Question 4: In which manner will the German Government prevent unintentional childlessness in future?

Question 5: What will the German Government do in order to allow employed and unintentional childless women for compatibility between their occupational activity and their fertility treatment?